



IN THE UNITED STATES

PATENT AND TRADEMARK OFFICE

RECEIVED

AUG 9 - 2004

GROUP 3600

APPLICANT(S): John J. Dooley *et al.*
APPLICATION NO.: 09/919,567
FILING DATE: July 30, 2001
TITLE: METHOD AND SYSTEM FOR MANAGING SUPPLY CHAIN NETWORKS
EXAMINER: Michael A. Cuff
GROUP ART UNIT: 3627
ATTY. DKT. NO.: 21790-08920

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

Dated: July 30, 2004

By: Dorian Cartwright
Dorian Cartwright, Reg. No.: 53,853

MAIL STOP DAC
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

PETITION UNDER MPEP §711.03(c) TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON TIMELY FILED REPLY

SIR:

Applicants respectfully request reconsideration and withdrawal of the *Notice of Abandonment* issued on June 28, 2004 for failure to timely file a proper reply to a *Final Office Action* of December 11, 2003. Based on the facts presented below, Applicants submit that the holding of abandonment was improper due to a timely *Request for Continued Examination (RCE)*, which included a proper reply to the *Final Office Action*, filed on March 11, 2004.

STATEMENT OF FACTS

Applicant submits as evidence of the timely filed reply:

- 1) Attached as "Exhibit A" is a copy of the *Final Office Action* of December 11, 2003 setting a three month shortened statutory period for reply which expired on March 11, 2004.
- 2) Attached as "Exhibit B" is a copy of the reply as *Amendment and Response B*, an *RCE Transmittal*, a *Fee Transmittal*, a return receipt postcard, an express mail label, and a check for \$385 filed on March 11, 2004.
- 3) Attached as "Exhibit C" is a copy of the date-stamped return receipt postcard showing a received date of March 11, 2004.
- 4) Attached as "Exhibit D" is a print out from PAIR showing a March 11, 2004 entry for "Workflow – Request for RCE – Begin."

COMMENTS

As shown by the evidence, Applicant timely submitted the *RCE* and reply on March 11, 2004, prior to expiration of the 3-month deadline and well before the 6-month abandonment deadline of June 11, 2004. The reply includes remarks showing that the newly added claims were patentable over the prior art asserted in the *Final Office Action*. Additionally, the PAIR print out shows that the *RCE* request was received on March 11, 2004. Therefore, the issuance of an abandonment due to not filing a timely reply was improper.

Applicant further submits that this Petition does not require the standard petition fee of \$130.00 because the application is not in fact abandoned. (See MPEP §711.03(c)(I)). However, in the event that such fee is required under 37 CFR 1.16 – 1.21, the Commissioner is hereby authorized to charge such fee to our Deposit Account 19-2555.

In consideration of the above stated and copies enclosed hereto, it is respectfully requested that the holding of abandonment be withdrawn.

Respectfully submitted,
JOHN J. DOOLEY *ET AL.*

Dated: July 30, 2004

By: *Dorian Cartwright*
Dorian Cartwright, Reg. No.: 53,853
Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Tel.: (650) 335-7247
Fax.: (650) 938-5200